

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

IN THE MATTER OF: MAX J. SILBERMAN

FILE NO. 0500100

CORRECTED NOTICE OF HEARING

**TO THE RESPONDENT:**

Max J. Silberman  
(CRD #: 423803)  
32 Orchard Circle  
Orange Village, Ohio 44022

C/O Oppenheimer & Co., Inc.  
125 Broad Street 16<sup>th</sup> Floor  
New York, New York 10004

You are hereby notified that pursuant to Section 11.F of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") and 14 Ill. Adm. Code 130, Subpart K, a public hearing will be held at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602, on the 14<sup>th</sup> day of June, 2006 at the hour of 10:00 a.m. or as soon as possible thereafter, before James L. Kopecky Esq, or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered revoking Max J. Silberman's (the "Respondent") registration as a salesperson in the State of Illinois and/or granting such other relief as may be authorized under the Act including but not limited to the imposition of a monetary fine in the maximum amount pursuant to Section 11.E(4) of the Act, payable within ten (10) business days of the entry of the Order

The grounds for such proposed action are as follows:

- 1 That at all relevant times, the Respondent was registered with the Secretary of State as a salesperson in the State of Illinois pursuant to Section 8 of the Act.

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2. That on January 4, 2005 NASD entered Order Accepting Offer of Settlement (Order) submitted by the Respondent regarding Disciplinary Proceedings No. C8A040028 which sanctioned the Respondent as follows:

- a. fined \$5, 100 ; and
- b. suspended from association with any member of NASD in any capacity for five (5) business days.

3 That the Order found:

- a During all times mentioned herein, GT was a member of the public who maintained an account with the Member and who died on September 28, 2001. The Respondent was responsible for servicing said account.
- b. From on or about October 16, 2001, until on or about March 20, 2002, the Respondent exercised discretion in the account of GT by placing 11 securities transactions, after GT had died, without having obtained prior written authorization from GT and prior written acceptance of the account as discretionary by the Member
- c On or about April 10, 2002, the Member and the Respondent were informed that GT had died in September 2001
- d. Despite knowing that GT had died, on or about April 26, 2002, the Respondent sold or caused to be sold 4 option call contracts for Chesapeake Energy at a \$10 strike price, which were set to expire on October 19, 2002 at \$45 per option contract for the total principal amount of \$180, and a net amount of \$167.49. The sale was made without the knowledge or consent of the executor of GT's estate and in the absence of written or oral authorization to the Respondent to exercise discretion in said account.
- e. Based on the foregoing, the Respondent violated NASD Conduct Rule 2110 and 2510.

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- 4 That Section 8 E(1)(j) of the Act provides, inter alia, that the registration of a salesperson may be revoked if the Secretary of State finds that such salesperson has been suspended by any self-regulatory organization registered under the Federal 1934 Act or the Federal 1974 Act arising from any fraudulent or deceptive act or a practice in violation of any rule, regulation or standard duly promulgated by the self-regulatory organization.
- 5 That NASD is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.
6. That by virtue of the foregoing, the Respondent's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Section 8.E(1)(j) of the Act.

You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 ILL. Adm. Code 130)(the "Rules"), to file an answer to the allegations outlined above within thirty (30) days of the receipt of this Notice. A failure to file an answer within the prescribed time shall be construed as an admission of the allegations contained in the Notice of Hearing.

Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default, unless any Respondent has upon due notice moved for and obtained a continuance.

A copy of the Rules, promulgated under the Act and pertaining to hearings held by the Office of the Secretary of State, Securities Department, is included with this Notice.

Delivery of Notice to the designated representative of any Respondent constitutes service upon such Respondent.

Dated: This 1st day of May 2006

  
JESSE WHITE  
Secretary of State  
State of Illinois

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Attorney for the Secretary of State:

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